

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICKY DILLINGHAM,

Plaintiff,

v.

GARCIA, B. CATES, AND B.
SANDERS,

Defendants.

Case No. 1:25-cv-00695-HBK (PC)

ORDER GRANTING PLAINTIFF'S MOTION
FOR LIMITED DISCOVERY

(Doc. No. 13)

ORDER TO CLERK TO
PROVIDE SUBPOENA DUCES
TECUM

90-DAY DEADLINE

Plaintiff, a prisoner, is proceeding pro se and *in forma pauperis* on his civil rights complaint filed under 42 U.S.C. § 1983. (Doc. No. 1, Complaint). The Court determined the Complaint stated a claim for a violation of Plaintiff's Eighth Amendment rights for unconstitutional conditions of confinement against Defendants Garcia, B. Cates, and B. Sanders. (Doc. No. 6). The Court advised Plaintiff that service could not be completed on Defendant Garcia because CDCR was "unable to identify" Defendant Garcia, and cautioned Plaintiff of Federal Rule of Civil Procedure 4(m)'s requirement that he must serve a defendant within 90 days of filing the complaint. Fed. R. Civ. P. 4(m). (Doc. NO. 11). In response, Plaintiff filed a motion to engage in limited discovery for the purposes of trying to identify Defendant Garcia. (Doc. No. 13).

1 The Court finds that good cause exists to open discovery for the limited purpose of identifying
2 Defendant Garcia. *See Gillespie v. Civiletti*, 629 F.2d 637, 642-43 (9th Cir. 1980) (“the plaintiff
3 should be given an opportunity through discovery to identify the unknown defendants”);
4 *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999). Plaintiff is not to engage in
5 discovery for any other purpose other than to identify Defendant Garcia against whom cognizable
6 claims have been found.

7 Given Plaintiff’s pro se status, the Court attaches to this Order a subpoena duces tecum for
8 Plaintiff to complete and return to the Court to the extent he seeks documents from a nonparty,
9 such as the California Department of Corrections.¹ When completing this subpoena, Plaintiff
10 must specify exactly which documents he is seeking. The request must be specific enough to
11 determine what Plaintiff seeks, i.e. the identity of the Defendant known as “Garcia.” The request
12 cannot be a broadly stated request that amounts to a fishing expedition. Once returned, the Court
13 will decide if it has been properly prepared and, if so, issue the subpoena to the correct entity to
14 produce the documents.

15 Plaintiff is reminded that he may only engage in discovery for the limited purpose of
16 identifying Defendant Garcia. The identifying information that Plaintiff provided in his
17 Complaint (the laundry supervisor or the place of Defendant Garcia’s employment, location
18 where Defendant Garcia worked at appropriate dates, and times) should be used to narrow
19 Plaintiff’s request for documents to any party or nonparty. Plaintiff also needs to keep in mind
20 what entity/institution would have these records to address the subpoena correctly. Plaintiff must
21 abide by this guidance and keep his requests narrowly tailored to identifying Defendant Garcia.

22 Accordingly, it is hereby ORDERED:

- 23 1. Plaintiff’s request to engage in limited discovery to identify Defendant Garcia (Doc.
24 No. 13) is GRANTED;
- 25 2. Plaintiff shall promptly complete and return attached subpoena duces tecum, if
26 appropriate;

27 ¹ The subpoena is necessary only to the extent that a party named in the Complaint would not have access
28 to the same records or documents.

3. The Clerk's Office shall send Plaintiff a subpoena duces tecum; and
4. Plaintiff shall have 90 days from the date of service of this Order to provide the identifying information to the Court for service of process; and
5. If Plaintiff fails to provide this information within the 90 day period, this action may be dismissed without prejudice against Defendant Garcia.

Dated: August 25, 2025


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE